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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 08/160,965   | 12/02/1993  | JAMES M. MUSSER      | 06239007001         | 2506             |
| 26271  | 7590        | 04/19/2002           | EXAMINER            |                  |
| FULBRIGHT & JAWORSKI, LLP<br>1301 MCKINNEY<br>SUITE 5100<br>HOUSTON, TX 77010-3095 |             |                      | HINES, JANA A       |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 1645                 | 54                  |                  |
| DATE MAILED: 04/19/2002  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                           |                  |
|------------------------------|---------------------------|------------------|
| <b>Office Action Summary</b> | Applicant No.             | Applicant(s)     |
|                              | 08/160,965                | MUSSER ET AL.    |
|                              | Examiner<br>Ja-Na A Hines | Art Unit<br>1645 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10/26/06.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____                                    |

***NON-RESPONSIVE AMENDMENT***

1. The communication filed on October 28, 2001 is not fully responsive to the communication mailed previously.

This action is non-responsive. Amended claims and newly submitted claims 1, 4-6, and 20-47 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The previous claims were drawn to a variety of mutant alleles comprised within a vaccine, however now the claims are drawn to cysteine proteases comprising at least one amino acid substitution, specific point mutations, vaccines comprising peptides and isolated peptides. Thus the invention appear to be drawn to newly claimed inventions. There appears to be no correspondence between the mutant alleles and the specific point mutations or the newly recited synthetic peptides. There is no data showing which alleles correlate to which amino acid sequences. For example Cys192 may prevent autoproteolysis, however there is no corresponding description of an allele with a similarly recited property. Thus, the examiner cannot appreciate that the new claims would read on the previously claimed invention.

2. The amendment filed on October 29, 2001 amending the previous claims and adding new claims is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the reasons stated above.

Art Unit: 1645

3. Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

4. Any inquiry concerning this communication should be directed to Examiner Ja-Na Hines, Art Unit 1645, whose telephone number is 703-305-0487.

Ja-Na Hines

April 17, 2002

*Patricia A. Duffy*  
PATRICIA A. DUFFY  
PRIMARY EXAMINER